IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

WP(C).No. 34345 OF 2006(L)

PETITIONER:

SMT. KHADEEJA, D/O. N.A. ABOOBACKER, PROPRIETOR, WOOD CRAFT INDUSTRIES, CHETTUMKUZHI, VIDYANAGAR, P.O. HIDAYATH NAGAR, KASARAGOD DISTRICT.

BY ADV. SRI.K.M.FIROZ

RESPONDENTS:

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1. THE DEPUTY COMMISSIONER (APPEALS), COMMERCIAL TAXES, KOZHIKODE.

2. THE SALES TAX OFFICER, DEPARTMENT OF COMMERCIAL TAXES, KASARAGOD.

3. THE INSPECTING ASSISTANT COMMISSIONER, COMMERCIAL TAXES, KASARAGOD.

GOVT. PLEADER SRI. JULIAN XAVIER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21.12.2006, THE COURT ON THE SAME DAY, DELIVERED THE FOLLOWING:

P.R. RAMAN, J.

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W.P.(C) NO. 34345 OF 2006

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DATED THIS, THE 21ST DAY OF DECEMBER, 2006.

J U D G M E N T

Challenge is against Ext.P1 interim order passed by the appellate authority, directing the petitioner to deposit 50% of the balance tax and furnish security for the balance amount as a condition for grant of stay.

2. It is stated that the petitioner has returned an amount of Rs. 14 lakhs for one year and the estimated addition is 18 lakhs and that in the other case, the addition made is 9 lakhs. Learned Government Pleader however, submits that penalty proceedings were initiated against the petitioner and the additions are made based on that. Anyway, these are not matters for this Court to consider at this stage. The interim order passed by the appellate authority being discretionary one, I do not find anything illegal warranting interference.

3. Heard both sides. This is a case where additions were made by the assessing officer at the time of assessment and the matter is pending in appeal. Though the appellate authority has directed to pay 50% of the

balance tax, considering the factual situation, it appears that such a condition will cause great hardship to the petitioner.

4. In the circumstances, the interim order Ext.P1 is modified and there will be a direction that in case the petitioner pays one third of the balance tax covered by the two assessment years in question within a period of one month from today, there will be a stay of recovery of the balance amount until the disposal of the appeal.

The writ petition is disposed of as above.

P.R. RAMAN,
(JUDGE)

knc/-